

<sup>2</sup> The Board notes that, following the September 11, 2020 decision and on appeal, appellant submitted additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this evidence for the first time on appeal. *Id.*

### **FACTUAL HISTORY**

On April 23, 2020 appellant, then a 52-year-old motor vehicle operator, filed a traumatic injury claim (Form CA-1) alleging that on April 13, 2020 she injured her back, legs, arms, and wrists while in the performance of duty. She explained that she was involved in a motor vehicle accident (MVA) when her employing establishment vehicle was struck by a truck. On the reverse side of the claim form the employing establishment indicated that on April 13, 2020 appellant was injured while in the performance of duty. Appellant stopped work on April 14, 2020.

An April 13, 2020 attending physician's report, Part B of an authorization for medical examination and/or treatment (Form CA-16) signed by Maureen Keenan, a family nurse practitioner, indicated that appellant was injured at work when her vehicle was rear-ended. Ms. Keenan noted that appellant had no history of a concurrent or preexisting injury, and her findings included spine and right shoulder pain and tenderness in the lateral aspect of the right hip upon palpation. She diagnosed right shoulder and lumbar strains and a right hip contusion, and she indicated that appellant's diagnoses were caused or aggravated by her employment incident. Ms. Keenan additionally stated that appellant could resume light work.

In another April 13, 2020 report, Ms. Keenan diagnosed a strain of the muscle, fascia, and tendon of the lower back, a right thigh contusion, and a strain of an unspecified muscle, fascia, or tendon at the right shoulder/upper arm. She also listed appellant's work restrictions.

An April 13, 2020 duty status report (Form CA-17) completed by Ms. Keenan indicated that appellant was injured at work on April 13, 2020. Clinical findings were listed as right hip pain, lumbar tenderness, and a right hip contusion, and appellant was diagnosed with right shoulder and low back strains due to the April 13, 2020 incident. The report additionally listed appellant's work restrictions.

In a development letter dated April 27, 2020, OWCP informed appellant that additional evidence was needed in support of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and attached a questionnaire for her completion. OWCP provided 30 days for appellant to submit the requested evidence.

In another report related to appellant's evaluation on April 13, 2020, Ms. Keenan indicated that appellant related that, after the claimed employment incident, she experienced pain in her waist, right leg, right shoulder, right hip, and the right side of her neck and back. Appellant stated that she had no relevant medical history, and a right shoulder physical examination revealed tenderness, pain upon palpation, limited range of motion with pain, bilateral deep tendon reflexes at 2/4, and a rotator cuff test indicated a positive painful arc. A right hip physical examination revealed tenderness, full range of motion with pain, and bilateral deep tendon reflexes at 2/4, and a lumbar spine physical examination revealed right-sided paraspinal tenderness, muscle spasms, and full range of motion with pain. Ms. Keenan diagnosed lumbar region strain, right hip and thigh contusions, and a right shoulder muscle strain. She indicated that appellant could return to work with restrictions.

A May 12, 2020 Form CA-17 signed by Matthew Abad, a physician assistant, indicated that appellant was injured at work on April 13, 2020 and sustained injury to her back, legs, and

arms. Clinical findings were listed as pain and spasms in appellant's back and lower back, and appellant was diagnosed with cervicalgia and lower back pain due to the April 13, 2020 incident. The report additionally listed appellant's work restrictions.

An April 16, 2020 report by Ms. Keenan related that appellant presented for a follow-up appointment regarding her arm, back, and neck injuries from April 13, 2020 and complained of low back and hip pain radiating into her lateral thigh. Ms. Keenan reviewed appellant's medical history, conducted a physical examination, and continued to diagnose lumbar region strain, right hip and thigh contusions, and a right shoulder muscle strain. She additionally indicated that appellant could return to work with restrictions.

By decision dated June 1, 2020, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted April 13, 2020 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

On June 15, 2020 appellant requested reconsideration.

A June 22, 2020 Form CA-16 signed by the employing establishment listed appellant's date of injury as April 13, 2020 and authorized treatment as medically necessary for the effects of the injury.

A June 9, 2020 attending physician's report, Part B of Form CA-16, signed by Mr. Abad indicated that on April 13, 2020 appellant was injured in an MVA at work and had no history of a concurrent or preexisting injury. Findings were recorded as including lower back and right elbow pain, and the report indicated that appellant's condition was caused by the April 13, 2020 employment incident. Mr. Abad also noted that appellant was totally disabled from April 20 to June 20, 2020 and could resume light work on July 1, 2020. The report also listed appellant's work restrictions.

An undated letter from Mr. Abad indicated that appellant was under his care due to her recent MVA. He stated that she sustained injuries that limited her ability to work and listed her work limitations.

June 23, July 7, and August 4, 2020 CA-17 form reports signed by Mr. Abad noted appellant's history of injury and related that she injured her back, hip, and shoulder. These reports described clinical findings as including pain and decreased range of motion and advised for appellant to not resume work.

An August 27, 2020 Form CA-17 from Mr. Abad indicated that on April 13, 2020 appellant was injured in an MVA. Clinical findings were listed as back pain and appellant was diagnosed with a lumbar disc protrusion. The report recommended for appellant to return to work full time on August 29, 2020.

By decision dated September 11, 2020, OWCP denied modification of its June 1, 2020 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,<sup>4</sup> that an injury was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>7</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the accepted employment incident must be based on a complete factual and medical background. Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the specific employment incident.<sup>9</sup>

### **ANALYSIS**

The Board finds that appellant has met her burden of proof to establish right hip and thigh contusions causally related the accepted April 13, 2020 employment incident.

On the date of injury, appellant was seen by Ms. Keenan, a nurse practitioner. In multiple reports dated April 13 and 16, 2020, she diagnosed, among other things, right hip and thigh

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>7</sup> *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q).

<sup>8</sup> *L.S.*, Docket No. 19-1769 (issued July 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>9</sup> *B.C.*, Docket No. 20-0221 (issued July 10, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

contusions. OWCP's procedures provide that, if a condition reported is a minor one, such as a burn, laceration, insect sting, or animal bite, which can be identified on visual inspection by a lay person, a case may be accepted without a medical report.<sup>10</sup> As the evidence of record establishes diagnosed visible injuries, the Board finds that appellant has met her burden of proof to establish right hip and thigh contusions causally related to the accepted April 13, 2020 employment incident.<sup>11</sup>

The Board further finds, however, that appellant has not met her burden of proof to establish additional medical conditions causally related to the accepted April 13, 2020 employment injury.

In support of her claim, appellant submitted multiple reports dated April 13 and 16, 2020 signed by Ms. Keenan, a family nurse practitioner. OWCP also received multiple reports dated from May 12 to August 27, 2020 from Mr. Abad, a physician assistant. However, the Board has held that certain healthcare providers such as physical therapists, nurses, nurse practitioners, physician assistants, and social workers are not considered physicians as defined under FECA.<sup>12</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing causal relationship. As such, this evidence is of no probative value and insufficient to meet appellant's burden of proof.<sup>13</sup>

As appellant has not submitted rationalized medical evidence establishing additional diagnosed medical conditions causally related to the accepted April 13, 2020 employment incident, she has not met her burden of proof.<sup>14</sup>

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has established right hip and thigh contusions causally related to the accepted April 13, 2020 employment incident. The Board further finds, however,

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<sup>10</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(c) (January 2013). See also *A.J.*, Docket No. 20-0484 (issued September 2, 2020).

<sup>11</sup> See *W.R.*, Docket No. 20-1101 (issued January 26, 2021); *S.K.*, Docket No. 18-1411 (issued July 22, 2020).

<sup>12</sup> 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t); see *B.W.*, Docket No. 20-1027 (issued November 18, 2020); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). A report from a physician assistant or certified nurse practitioner will not be considered medical evidence unless countersigned by a qualified physician. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013).

<sup>13</sup> *Id.*

<sup>14</sup> *C.W.*, Docket No. 20-1027 (issued November 18, 2020); *J.T.*, Docket No. 18-1755 (issued April 4, 2019).

that appellant has not met her burden of proof to establish a diagnosed medical condition causally related to the accepted employment injury.<sup>15</sup>

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 11 and June 1, 2020 decisions of the Office of Workers' Compensation Programs are affirmed in part and reversed in part.

Issued: August 19, 2021  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>15</sup> The Board notes that the employing establishment issued a Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. § 10.300(c); *C.B.*, Docket No. 19-1882 (issued April 1, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).